

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA**

SHARON STEELY,

Petitioner,

v.

**Civil Action No. 5:07cv43
(Judge Stamp)**

SFF HAZELTON,

Respondent.

REPORT AND RECOMMENDATION

The *pro se* petitioner initiated this case by filing a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 in the United States District Court for the Eastern District of Kentucky. On March 22, 2007, the case was transferred to this court. Upon review of the file, the Clerk's office determined that the petitioner had neither paid the required filing fee nor submitted the forms necessary for the Court to permit her to proceed without prepayment of the fees. Therefore, on March 22, 2007, the Clerk's office sent the petitioner a Notice of Deficient Pleading advising her that she must either pay the \$350.00 filing fee or submit an application to proceed in forma pauperis, consent to collect fees and a prisoner trust account report. On March 26, 2007, the Clerk's office sent an Amended Notice of deficient pleading advising her that the filing fee was, in fact, \$5.00.

On May 8, 2007, the undersigned reviewed the file and determined that the petitioner had not paid the \$5.00 filing fee nor filed the appropriate paperwork for a ruling that would permit her to proceed in forma pauperis. Recognizing that petitioner might have been confused by the two Notices of Deficient Pleading and might not have been provided with an application to proceed in forma

pauperis, an order was entered giving the petitioner an additional 20 days to pay the \$5.00 filing fee or submit the completed forms. As well, the Clerk of the Court was directed to send the petitioner an application to proceed in forma pauperis and a prisoner trust account report. The order specifically advised petitioner that the failure to comply within the allotted time would result in recommendation that her case be dismissed.

A review of the file shows that as of the date of this Opinion, petitioner has not paid the filing fee, nor filed the requested forms. In addition, she has not filed a motion to extend time to do so, or otherwise explained her reasons for noncompliance. Accordingly, it is the recommendation of the undersigned that the instant case be **DISMISSED** without prejudice for the failure to prosecute unless the Court hears to the contrary within ten (10) days from the date of this Order. Any pleadings, motions, letters or other documents filed in response to this Report and Recommendation should be submitted to the Honorable Frederick P. Stamp, Jr., United States District Judge. Failure to timely file objections to this recommendation will result in waiver of the right to appeal from a judgment of this Court based upon such recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk is directed to mail a copy of this Report and Recommendation to the *pro se* petitioner and counsel of record, as applicable.

DATED: June 25, 2007.

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE